

U.S. Department of Labor

Office of Administrative Law Judges
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Date: August 31, 1999

Case No.: 1998-CLA-0047

In the Matter of:

ADMINISTRATOR, WAGE AND HOUR DIVISION,
UNITED STATES DEPARTMENT OF LABOR,
Plaintiff

v.

DICKSON ENTERPRISES, INC., doing business
as CENTRAL PARK OF LOGAN; DICKSON UNLIMITED,
LLC, doing business as CENTRAL PARK OF
LAYTON; FRANK DICKSON, Individually,
Respondents

DECISION AND ORDER APPROVING CONSENT FINDINGS

The parties, pursuant to 29 C.F.R. § 18.9 (made applicable to these proceedings by virtue of 29 C.F.R. § 580.7(a)), hereby agree to Consent Findings, a copy of which is attached hereto and made part hereof, as follows:

1. By notice dated September 4, 1997, pursuant to Section 16(e) of the Fair Labor Standards Act, as amended (29 U.S.C. § 216(e)) (hereinafter "the Act"), and in accordance with 29 C.F.R. Part 579, civil penalties in the amount of \$34,900 were assessed by Plaintiff against Respondents as a result of the employment of several minors in violation of the child labor provisions of Section 12 of the Act (29 U.S.C. § 212) and the regulations issued thereunder (29 C.F.R. Part 570).

2. By letter dated September 25, 1997, Respondents filed a timely exception to the assessed civil money penalties pursuant to 29 U.S.C. § 216(e) and 29 C.F.R. Part 580.6.

3. Subsequent to the filing of the exception, the Regional Solicitor, by Order of Reference, referred this case to the Chief Administrative Law Judge, pursuant to 29 C.F.R. Part 580.10.

4. Plaintiff alleges and Respondents admit that at all times pertinent hereto Dickson Enterprises, Inc., and Dickson Unlimited, LLC, has been an enterprise engaged in commerce or in the production of goods for commerce within the meaning of Sections 3(r) and 3(s) of the Act.

5. Respondents certify that they are presently in compliance with the provisions of Section 12 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. § 212), and the regulations set forth at 29 C.F.R. Parts 570 and 579, and further state that they will continue in compliance herewith.

6. Upon reconsideration of the amount of penalties assessed for employment of many minors in this case, Plaintiff hereby modifies the letter assessing the penalties of \$34,900 by reducing the assessment of civil money penalties to \$21,300.

7. Respondents hereby withdraw any and all exceptions to the assessment of civil money penalties, as amended by these Consent Findings, and agree that said amended penalties shall be the final determination of the Secretary.

8. Respondents agree to pay the reduced penalties in the amount of \$21,300 by remitting a check in that amount no later than August 31, 1999, made payable to the U.S. Department of Labor. The check shall be sent to the U.S. Department of Labor, Employment Standards Administration, P.O. Box 843343, Dallas, Texas. The check shall contain the Case Name and Number.

9. Pursuant to 29 C.F.R. § 18.9(b)(2), the entire record upon which these Consent Findings and Order are based consists solely of the letter assessing the penalties, as modified herein, the Order of Reference, and these Consent Findings.

10. All further procedural steps before the Administrative Law Judge and any rights to challenge or contest the validity of these Consent Findings or any Order issued pursuant thereto are hereby waived.

11. Each party hereby agrees to bear its own fees, costs, and other expenses incurred by such party in connection with any stage of this proceeding.

12. It is further agreed that the Order in this case shall have the same force and effect as an order made after full hearing.

Upon consideration of the Consent Findings, I conclude that this settlement is in the best interests of all of the parties, and it is therefore,

ORDERED that the Consent Findings shall be, and the same are hereby APPROVED pursuant to the provisions of 29 C.F.R. § 6.32.

ROBERT L. HILLYARD
Administrative Law Judge

Attachment